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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/759,920	01/12/2001	Wayne Kelly	MCA-489 US	2777
7590	01/22/2004		EXAMINER	
			MENON, KRISHNAN S	
		ART UNIT	PAPER NUMBER	
		1723		

DATE MAILED: 01/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

AS

Advisory Action	Application No.	Applicant(s)
	09/759,920	KELLY ET AL.
	Examiner	Art Unit
	Krishnan S Menon	1723

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 December 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) The period for reply expires _____ months from the mailing date of the final rejection.
 b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
 ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
 2. The proposed amendment(s) will not be entered because:
 (a) they raise new issues that would require further consideration and/or search (see NOTE below);
 (b) they raise the issue of new matter (see Note below);
 (c) they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: attached.

3. Applicant's reply has overcome the following rejection(s): _____.
 4. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 5. The a) affidavit, b) exhibit, or c) request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
 6. The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
 7. For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 11 and 58-78.
 Claim(s) withdrawn from consideration: _____.
 8. The drawing correction filed on _____ is a) approved or b) disapproved by the Examiner.
 9. Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
 10. Other: _____

Response to Arguments

The amendment is not entered because the newly added limitation "... each having a substantially neutral surface having a zeta potential ... between 0 and -5 mV ..." requires new consideration.

Applicant's arguments filed 12/18/03 have been fully considered but they are not persuasive.

Argument re the rejection of claim 11 on the basis of applicant's own admission of prior art: Applicant argues that the examiner is in error in interpreting figure 5, that only the applicant's filters #2 and #6 fall within the zeta potential range of 0 to -5 mV, and that the filter #3 (US Filter) has a zeta potential of -9 mV at pH 4. In response, the examiner, on further study of the Figures submitted with the application, sees that filter #3 (star (*) symbol) has a zeta potential slightly below -5mV and is the closest to the applicant's claim 11. Filter #6 (symbol – filled square) shows a zeta potential of close to +10 mV, and filter #2 (symbol – open circle) shows a zeta potential above 0 mV.

Argument re the rejection based on Pall '545 ref: Applicant argues that only filters # 1 and 6 remove both negatively and positively charged particles to an LRV of at least 3 as per figures 6 and 7 at condition specified by the claims [58]. In response: condition specified by claim 11 has a pH of 4, and both filters # 1 and 6 do not have a zeta potential between 0 and -5 mV at pH 4. Filter 1 (open diamond) has a zeta potential of -15 mV at pH 4. Filter #6 has a zeta potential of close to +10 mV at pH 4. Examiner finds that while filters #1,3,6,7 and 8 have an LRV of 3 for negative particles and filters # 2,5,6 and 7 have LRV of 3 for positive particles, all of which meet claim 58,

only filter #6 (filled square) and 7 (filled diamond) show LRV of 3 for both negative and positive particles at zeta potential between 0 and -5 mV (which may be at a pH different from 4). Since filter 3 and 5 are unmodified commercial filters, and filter 6 is of undisclosed origin (origin shown as N/A in Table III) and made of ultra high molecular weight polyethylene (UPE) with no surface modification, the results of Fig 6 and 7 indicate that a prior art filters are performing as claimed by the applicant, which is admission of prior knowledge.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krishnan S Menon whose telephone number is 571-272-1143. The examiner can normally be reached on 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Krishnan Menon
Patent Examiner


W. L. WALKER
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